

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

NORMAN TIMOTHY GREGORY,

Plaintiff,

No. CIV S-04-2523 DFL PAN P

vs.

T. AYERS, et al.,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On March 3, 2006, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. No objections were entered in the record, and on March 31, 2006, this court adopted the findings and recommendations in full.

On April 20, 2006, plaintiff filed a motion for reconsideration of the court's March 31, 2006 order. Plaintiff's motion is predicated on his contention that he did timely file objections to the findings and recommendations. A copy of objections to the findings and

1 recommendations, dated March 21, 2006, is appended to plaintiff's motion for reconsideration.

2 For reasons that are not apparent in the record, the objections appended to
3 plaintiff's motion for reconsideration were not filed in this action prior to the filing of the motion
4 for reconsideration. Nonetheless, good cause appearing, the court will, in accordance with the
5 provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, conduct a de novo review of this
6 case. Having carefully reviewed the entire file, including plaintiff's objections, the court finds
7 the findings and recommendations to be supported by the record and by proper analysis.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff's April 20, 2006 motion for reconsideration is granted;
10 2. This court's March 31, 2006 order is vacated;
11 3. The findings and recommendations filed March 3, 2006 are adopted in full;
12 4. Defendants' August 29, 2005 motion to dismiss is denied as to plaintiff's
13 retaliation claims against defendants Reuter, Glensor, and Coombs, and granted in all other
14 respects; and
15 5. Plaintiff's claims arising out of his June 30, 2004 disciplinary conviction on
16 charges of making false allegations against a peace officer are dismissed without prejudice.

17 DATED: March 29, 2007

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19 /s/ David F. Levi
20 UNITED STATES DISTRICT JUDGE

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